

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ADWOWA JACOBS,

Plaintiff,

v.

ELECTRONIC DATA SYSTEMS
CORPORATION AND JEFF
WILLIAMS,
Defendants.

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CIVIL ACTION NO.

2:05-CV-925-MHT-SRW

AFFIDAVIT OF RACHEL M. SMITH

On this date, Rachel M. Smith personally appeared before me, the undersigned Notary Public, and after being duly sworn stated the following under oath:

1. My name is Rachel Smith. I am currently over the age of twenty-one (21). I have never been convicted of a felony or a crime of moral turpitude. I am under no legal disability and I am fully competent to make this Affidavit. I am an attorney with Baker & Hostetler LLP and legal counsel handling this matter for Electronic Data Systems Corporation ("EDS"). As such, I have personal knowledge of the facts stated herein and they are true and correct.

2. On March 27, 2006, EDS served Plaintiff with its First Set of Requests for Admission, Interrogatories and Requests for Production by certified mail, return receipt requested.

3. Pursuant to the Federal Rules of Civil Procedure, Plaintiff's responses to EDS' discovery requests were due on May 1, 2006. Plaintiff, however, failed to serve her discovery requests by the due date.

4. On June 16, 2006, after three (3) failed attempts to confer with Plaintiff's counsel by letter on May 8, 22 and June 7, 2006, respectively, EDS filed a Motion to Compel and for

Imposition of Sanctions pursuant to Federal Rule of Civil Procedure 37. On July 12, 2006 this Court granted EDS' Motion to Compel and ordered that Plaintiff respond to EDS' outstanding interrogatories and request for production, without objection, on or before July 21, 2006. Despite the Court's Order, Plaintiff did not respond to EDS' outstanding interrogatories and request for production by July 21, 2006. To date, Plaintiff has yet to respond to EDS' outstanding interrogatories and requests for production.

5. In its July 12, 2006, Order, the Court also granted EDS' request for sanctions and ordered Plaintiff to pay EDS reasonable expenses and attorney's fees incurred in making its Motion to Compel. To facilitate the order granting EDS sanctions, the Court ordered EDS to file an affidavit itemizing such fees and expenses by July 20, 2006. EDS complied with the Court's Order. On August 3, 2006, upon consideration of EDS' affidavit in support of its fees and costs, the Court ordered that Plaintiff pay the sum of \$918.31 to EDS on or before August 16, 2006, for expenses incurred in making its Motion to Compel. Despite the Court's Order, to date Plaintiff has not made such payment.

6. Plaintiff has not taken any formal steps to advance her case since untimely serving Initial Disclosures on March 15, 2006, more than five (5) months ago.

7. As a result of Plaintiff's failure to comply with her discovery obligations and the Court's Orders, EDS has incurred a reasonable attorneys' fee in the sum of at least \$1,000.00 for services performed in making and filing this Motion.

I declare under the penalty of perjury that the foregoing is true and correct.

Signed this 28th day of August, 2006.

R. Smith

Rachel M. Smith

SUBSCRIBED AND SWORN BEFORE ME on August 28, 2006.

Criseda S. Stevens

Notary Public in and for the State of Texas

My commission expires:

12/23/2009

